THE BOMBAY FERRIES ACT, 1868.

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SCHEDULE.

BOMBAY ACT No. II OF 1868.[1]

[THE BOMBAY FERRIES ACT, 1868.]

[*17th December, 1868.*]

Repealed in part, by Act 12 of 1873 ;
" " " " " 2 of 1901 ;
" " " " " 38 of 1920 ;
" " " " Bom. 3 of 1886.
Repealed in part (except in the City of Bombay), by Bom. 1 of 1884.
Amended by Bom. 2 of 1878 ;
" " " 8 of 1923 ;
" " " 4 of 1933.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 21 of 1942*.
Amended by Bom. 17 of 1945§.

An Act to amend the law relating to public ferries [2][and inland vessels] in the Presidency of Bombay.

WHEREAS it is expedient to amend the law relating to public ferries [2][and inland vessels] in the Presidency of Bombay ; It is enacted as follows :— Preamble.

1. [*Repeal.*] *Rep. Act XII of 1873.*

2. It shall be lawful for [3][the Provincial Government] to declare by notification what ferries within the Presidency of Bombay shall be deemed public ferries, and also, by notification from time to time, to establish any new public ferry or discontinue any existing public ferry. Provincial Government may constitute public ferries, establish new and discontinue existing ferries.

[4]2A. It shall be lawful for [3][the* Provincial Government] to declare by notification in the [5][Official Gazette] that any public ferry notified under section 2 shall vest in the local body or jointly in the local bodies, exercising authority over the area or areas, as the case may be, in which such ferry is situate and thereafter such local body or bodies shall exercise in respect of such ferry all the powers specified in the Schedule to this Act : Vesting of public ferries in local bodies : Powers of local bodies in respect thereto.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1868, Pt. V, p. 425 ; for Report of the Select Committee, *see ibid*, p. 448, and for Proceedings in Council, *see ibid*, pp. 457, 476 and 582.

The net proceeds of public ferries established under Bom. 2 of 1868, and all penalties inflicted and levied under the Act are to be credited to the Local Fund constituted by the Bombay Local Boards Act, 1923 (Bom. 6 of 1923), *see* s. 75 of that Act.

[2] These words were inserted by Bom. 21 of 1942, s. 2, read with Bom. 55 of 1947, s. 2.

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] Section 2A was inserted by Bom. 8 of 1923, s. 2.

[5] The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

* Sections 2 to 8 of this Act were re-enacted by Bom. 55 of 1947, s. 2.

§ This Act has been re-enacted and the amendments made by section 9 and Schedule E of the said Acts have been continued in force by Bom. 52 of 1947, s. 2.

Provided that the power of exemption under clause (*d*) of section 3 shall also be exercisable by [1][the Provincial Government].

Explanation.—For the purpose of this section "local body" means a district local board or a municipality.

Rates of toll.

3. Tolls according to such rates as shall from time to time be approved by [1][the Provincial Government], shall be levied upon all passengers, carts, carriages, cattle and other animals, and on all goods and merchandise, carried over any public ferry;

Exemption from toll.

Provided always that no tolls shall be levied from—

[2](*a*) * * * * *

(*b*) any Police-officer in uniform on duty:

(*c*) any person in the custody of the Police:

[3](*d*) any person whom the [4][Provincial Government] shall, by notification in the [5][Official Gazette], deem fit specially to exempt from payment of such tolls.

Appointment and salaries, of toll-keepers, etc.

4. It shall be lawful for [1][the Provincial Government] to provide for the appointment of toll-keepers, ferrymen and other servants for the management and conduct of any public ferry; and the salaries of such persons shall be defrayed from funds raised under this Act, or from other sources of local revenue, but not from the general [6]* * revenues [6]* *.

Provincial Government may lease public ferries by public auction or private contract.

5. It shall be lawful for [1][the Provincial Government] to lease any public ferry by public auction or private contract, from year to year, or for any longer period not exceeding seven years, on such conditions as [1][the Provincial Government] deems advisable, in which case a contract setting forth the conditions on which the ferry is to be held shall be executed by the contractor or farmer, and security shall be given by him for its due fulfilment, and any pecuniary forfeiture for breach of contract, inserted in the deed of contract or conditions of sale by public auction, as the case may be, may be enforced in the same manner as a demand for the land revenue under the law for the time being in force, so far as applicable.

Acts of servant of contractor.

6. When a public ferry has been duly leased or farmed out,

every servant of the lessee, contractor or farmer shall be deemed to be legally bound to do everything necessary for or conducive to the safety of the public which he shall be required to do by any regulation made by the lessee, contractor or farmer, and approved by [1][the Provincial Government] and of which regulation such servant shall have had notice, and

every such servant shall be deemed to be legally prohibited from doing every act which shall be likely to cause danger, and which by any such regulation he shall be prohibited from doing, and

every person employed by or on behalf of such lessee, contractor or farmer to do any act upon the ferries shall be deemed to be a servant of the lessee, contractor or farmer.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] Clause (*a*) as to soldiers in uniform on duty was repealed by s. 3 of the Indian Tolls (Army) Act, 1901 (2 of 1901), Central Acts.

[3] Clause (*d*) was added by the Ferries (Amendment) Act, 1878 (Bom. 2 of 1878).

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[5] The words "Official Gazette" were substituted for the words "Bombay Government Gazette", *ibid.*

[6] The words "or Imperial" and "except with the sanction of the Governor-General in Council" were omitted by s. 2 and Schedule I of the Devolution Act, 1920 (38 of 1920).

Table of tolls to be hung up.

7. It shall be the duty of every toll-keeper, toll-contractor or farmer to hang up in some conspicuous place at his ferry-station a table of tolls, written or printed in English and in the language of the district.

Penalty in respect to table of tolls.

8. Any toll-keeper or toll-contractor or farmer,

who shall neglect to hang up and keep in good order and repair a table of tolls as aforesaid, or

who shall wilfully remove, alter or deface the same, or allow it to become illegible,

shall be liable on each conviction to a penalty not exceeding ten rupees.

Penalty for taking unlawful toll.

9. Any toll-keeper or other person appointed as in section 4, who shall neglect to take the due toll, or shall ask or take any toll other than is allowed by the table of tolls, and

any toll-contractor or farmer, or any person in the service of a toll-contractor or farmer, who shall ask or take any toll in excess of that allowed by the table of tolls,

shall be liable to a penalty not exceeding fifty rupees.

Penalty for wilful delay.

10. Any toll-keeper or other person appointed as in section 4, or toll-contractor or farmer or person in the service of a toll-contractor or farmer, who without good reason shall delay any passenger, cart, carriage, animal or goods, shall be liable to a penalty not exceeding fifty rupees.

Penalty for refusal or evasion of toll and for obstruction or damage.

11. Any person

who shall refuse to pay the lawful toll, or

who, with intent of avoiding payment thereof, shall pass through any ferry-station without paying the toll, or

who shall obstruct in the execution of his duty any toll-keeper or other person lawfully engaged in the management or conduct of a public ferry,

and also any person

who shall maliciously damage any toll-bar, boat or other thing belonging to a public ferry, or

who shall maliciously remove, alter, destroy or damage any table of tolls hung up as hereinbefore directed,

shall be liable to a penalty not exceeding fifty rupees, over and above the value of the damage done.

Officers who may make rules for regulation of public ferries.

12. [1][Except in the case provided in sub-section (*2*) of section 14B, and elsewhere—

(*a*) in the case of public ferries on roads under the control of the Executive Engineer of a Division of the Public Works Department, such Executive Engineer, and

(*b*) in all other cases, the Collector of the district],

may, subject to such general directions as [2][the Provincial Government] from time to time may issue, make rules to determine the number of passengers, carts, carriages and animals, and the quantity of goods, that may be carried in any public ferry-boat at one trip, and for the safe, speedy and convenient carriage and landing of passengers and property, and for keeping the ferry-boats in good order and otherwise for the due discharge of their duty by toll-contractors or farmers, toll-keepers, ferrymen and other persons employed at a public ferry ;

[1] These words were substituted for the words "The Senior Magistrate of Police in the city of Bombay, and the Collector of the district elsewhere" by Bom. 4 of 1933, s. 2.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

and any toll-contractor or farmer, toll-keeper, ferry man or other person infringing or disobeying any such rule shall be liable to make good any loss or damage caused thereby, which loss or damage may be summarily ascertained by any Magistrate within whose jurisdiction the offence was committed, and the amount thereof may be recovered as any penalty under this Act may be recovered.

Penalty for conveying passengers or goods without licence at Bombay.

13. Any person who, without the special licence of [1][the Provincial Government], shall convey for hire any passenger, animal, cart, carriage or goods from any part of [2][the Greater Bombay] across the harbour of Bombay to the mainland, or any of the adjacent islands or from the mainland or any of the adjacent islands to any part of [2][the Greater Bombay] shall be liable to a penalty not exceeding five hundred rupees;

Proviso.

but this penalty shall not apply to the conveyance by boat for hire of passengers, animals, carts, carriages and goods from one part of [2][the Greater Bombay] to any other part thereof, nor to any person specially hiring a boat for the conveyance of himself or his family or friends, or servants or goods, nor to the person letting such boat for hire for the said purpose.

14. [*Penalty for carrying passengers, etc., without licence.*] *Rep.* [3]*Bom. 21 of 1942.*

Penalty for conveying passenger etc. along river etc. near toll bridge.

[4][**14A.** (*1*) No person shall, without a special licence granted by an officer empowered by the Provincial Government in this behalf, convey for hire any passenger, animal, goods or other thing in any vessel on any river, stream, creek, tank, lake or other collection of water affording passage for a vessel between two points both of which are less than three miles distant from a bridge at which under the provisions of any law for the time being in force a toll is leviable on persons, animals, goods or other things.

(*2*) Whoever contravenes the provisions of sub-section (*1*) shall on conviction be punishable with fine which may extend to five hundred rupees.]

Penalty for conveying passengers etc. in a ferry boat with a submerged load-line or without prescribed free-board.

[5][**14B.** (*1*) Any person who shall convey [6][whether for hire or not, on any river, stream, creek, tank, lake or other collection of water affording passage for a vessel any passenger, animal, goods or other thing in any vessel,] of which the prescribed load-line is submerged or of which the free-board is less than the prescribed free-board, shall be liable to a penalty not exceeding five hundred rupees.

(*2*) [1][The Provincial Government] may make rules prescribing the manner in which the load-line or free-board shall be marked upon any [7][vessel] to which the provisions of sub-section (*1*) apply. The rules so made shall be published in the [8][Official Gazette].

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the original words by Bom. 17 of 1945, s. 9, Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

[3] This Act was re-enacted by Bom. 55 of 1947, s. 2.

[4] Section 14A was substituted for the original section by Bom. 21 of 1942, s. 4, read with Bom. 55 of 1947, s. 2.

[5] Section 14B was inserted by Bom 4 of 1933, s. 4.

[6] This portion was substituted for the original portion by Bom. 21 of 1942, s. 5, read with Bom. 55 of 1947, s. 2.

[7] This word was substituted for the word "boat", *ibid.*

[8] The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

[1][14C. No person shall ply any vessel on any river, stream, creek, tank, lake or other collection of water affording passage for a vessel, whether for hire or not, except under a licence granted by an officer empowered by the Provincial Government in this behalf and except in accordance with the provisions of this Act, the rules, regulations and orders made thereunder and the conditions of such licence : Licence required to ply any vessel on any river etc.

Provided that the Provincial Government may, by notification in the Official Gazette, exempt from the operation of this section such vessels or class of vessels as may be specified in such notification.]

[1][14D. Any Magistrate or Police Officer, not below the rank of a Sub-Inspector, or any officer specially empowered by the Provincial Government in this behalf may board and inspect any vessel for the purpose of satisfying himself that the provisions of this Act, the rules, regulations and orders made thereunder and the conditions of the licence issued in respect of such vessel are duly observed. If such officer is of the opinion that the vessel is not seaworthy or is insufficiently equipped or is in such a condition that its plying may cause danger to human life or safety, he may suspend the licence issued in respect of such vessel and such vessel shall not thereafter be plied until the order suspending the licence has been cancelled or a fresh licence has been issued in respect of such vessel.] Inspection of vessels and suspension of the license if vessels are not seaworthy etc.

[1][14E. (*1*) If any Magistrate, or any Police Officer, not below the rank of a Sub-Inspector, or any officer of the Public Works Department, not below the rank of an Assistant or Deputy Engineer or any officer specially empowered by the Provincial Government in this behalf, is at any time of the opinion that in order to avert any accident or danger to human life or safety it is necessary to take action under this sub-section, such Magistrate or officer may by order prohibit the plying of any vessel, or of any class of vessels or of vessels generally on any river, stream, creek, tank, lake or other collection of water affording passage for a vessel, within the limits of his jurisdiction, during such period as may be specified in the order. Power to prohibit plying of vessel to avert any accident and to requisition vessels etc.

(*2*) Any such Magistrate or officer may by order, within the limits of his jurisdiction, for the purpose of saving any human life or property, requisition the use of any vessel or other property likely to be useful in effecting rescue for such period as may be specified in the order. When any Magistrate or officer requisitions the use of any vessel or other property for any period, there shall be paid to the person deprived of it for the period such amount of compensation as may be determined by the Magistrate or officer. The decision of the Magistrate or the officer regarding the amount of compensation and the person to whom such compensation is payable shall be final.]

[1][14F. Any person who contravenes any of the provisions of this Act or of the rules, regulations and orders made thereunder or of the conditions of any licence granted under section 14C, shall, on conviction, if no other penalty is provided in the Act for such contravention, be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both]. Penalty for breach of the provisions of the Act, rules, regulations and orders made thereunder and the conditions of the licence granted under section 14C.

[1][14G. If any of the provisions of this Act, or of the rules, regulations or orders made thereunder or of the conditions of the licence granted under section 14C are contravened in respect of any vessel, both the owner and the person in charge of such vessel shall be deemed to have contravened such provisions and shall be personally liable for the same]. Both the owner and the person in charge to be liable for any breach.

[1] Sections 14C, 14D, 14E, 14F and 14G were inserted by Bom. 21 of 1942, s. 6, read with Bom. 55 of 1947, s. 2.

Trial of offences in Bombay;

15. In [1][the Greater Bombay] offences against this Act shall be summarily heard and determined by any Magistrate of Police, and all fines imposed may, in default of payment, be levied under the warrant of such Magistrate by distress and sale of the goods of the offender.

In places out of city.

In places not within the limits of [1][the Greater Bombay] offences against this Act shall be inquired into and determined by any Magistrate exercising jurisdiction in the district in which the offence has been committed, and all fines imposed may be levied in the manner provide in section 61 of the Criminal Procedure Code[2].

Recovery of fines.

[3]**16.** [*Application of proceeds of tolls, farms and penalties.*] *Rep. Bom. 1 of 1888.*

Provincial Government may delegate powers.

17. [4][The Provincial Government] may delegate, under such restrictions as may seem fit, any of the powers conferred on it by this Act, *ex officio*, to any [5]* * * *Commissioner, Collector, Magistrate or other person.

Rules and Regulations.

[6][**17A.** (*1*) The Provincial Government may, after previous publication, make rules for the purpose of carrying out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(*a*) licensing and regulating vessels, plying, whether for hire or not, on any river, stream, creek, tank, lake or other collection of water affording passage for a vessel, and prescribing the officers by whom and the conditions on which licences for plying such vessels may be granted, suspended or revoked and the fees payable in respect of such licences ;

(*b*) determining the number of passengers, carts, carriages or animals or the quantity of goods or other things that may be carried in such vessels ;

(*c*) regulating the carriage and exhibition of lights by such vessels ;

(*d*) prescribing the fares which may be charged for the carriage of passengers, animals, goods, or other things in such vessels ;

(*e*) regulating the conduct of passengers in such vessels ;

(*f*) prescribing the equipment and the number of the crew which must be on board any such vessel when it is plying ; and

(*g*) generally for securing the safe, speedy and convenient carriage and landing of passengers and cargo in such vessels.

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[1] These words were substituted for the original words by Bom. 17 of 1945, s. 9, Schedule E read with Bom. 52 of 1947, s. 2, proviso.

[2] See now ss. 386, 387 and 389 of the Code of Criminal Procedure, 1898 (Act 5 of 1898).

[3] Section 16 which is repealed, except in the City of Bombay, by the Bombay Local Boards Act, 1884 (Bom. I of 1884), s. 2, and Schedule, is as follows :—

Clause 1.—In each district the proceeds from tolls and farms of public ferries, and from penalties levied under this Act, shall form the ferry fund of such district, and shall be appropriated in the first instance to the maintenance of the public ferries of the district, and the improvement of the roads leading to the said ferries, the surplus, if any, being expended on local works in the district in such manner as Government may from time to time direct.

Clause 2.—The limits of each district for the purposes of this section shall be such as Government may from time to time determine.

Clause 3.—When a public ferry is partly in one district and partly in another, it shall be lawful for Government to assign to each district such proportion of the proceeds as they shall deem fit. The Bombay Local Boards Act, 1884, has now been repealed by Bom. 6 of 1923.

[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council

[5] The words "Revenue or Police" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. I of 1904).

[6] Sections 17A, 17B and 17C were inserted by Bom. 21 of 1942, s. 7, read with Bom. 55 of 1947, s. 2.

(*3*) The District Magistrate may, from time to time, make regulations, not inconsistent with the provisions of this Act and the rules thereunder—

(*a*) regulating the plying of vessels on any river, stream, creek, tank, lake or other collection of water affording passage for a vessel, within the limits of his jurisdiction, and

(*b*) for securing the safe, speedy and convenient carriage and landing of passengers in such vessels.]

[1][**17B.** In this Act, "vessel" shall include anything made for the conveyance by water of human beings, animals or property.] Definition of "vessel".

[1][**17C.** Nothing in sections 14A to 14G and 17A and 17B shall apply in respect of any vessel plying on sea or on tidal waters or in any major port, or in respect of any inland steam-vessel as defined in sub-section (*1*) of section 2 of the Inland Steam-vessels Act, 1917, or in respect of any vessel plying under a licence issued in exercise of the powers conferred by section 6 of the Indian Ports Act, 1908.] Provisions of section 14A to 14G and 17A and 17B not applicable in certain cases.

I of 1917.

XV of 1908.

18. This Act may be cited as the Bombay Ferries [2][and Inland Vessels] Act, 1868. Short title.

[3]SCHEDULE.

Under section.	Powers.
3.	Powers exercisable by [4][the Provincial Government] including the power to exempt from payment of toll under clause (*d*).
4.	Powers exercisable by [4][the Provincial Government].
5.	Powers exercisable by [4][the Provincial Government].
12.	Powers exercisable by the Collector of the district.
14.	Powers exercisable by the Collector of the district.

[1] Section 17A, 17B and 17C were inserted by Bom. 21 of 1942, s. 7, read with Bom. 55 of 1947, s. 2.
[2] These words were inserted, *ibid*, s. 8.
[3] This Schedule was added by Bom. 8 of 1923, s. 3.
[4] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.